IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12443 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATBHAI SADTHABHAI DABHI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR HH PATEL AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/02/2001

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. The petitioner was detained as a bootlegger under the order of the District Magistrate, Bhavnagar dated 25.10.2000 and he is presently at Junagadh District

Prison, Junagadh.

#. Challenging this order manifold contentions are raised by the learned counsel for the petitioner but as this petition deserves to be allowed only on one contention it is not necessary to give details all the contentions, discuss and decide.

#. It is not in dispute that none of the respondents has filed reply to the Special Civil Application.

#. One of the contentions raised is that the copies of the statements of witnesses recorded under Section 161 of the Cr.P.C. in the criminal complaint which are made basis for detention of the petitioner were not supplied to him. Reply to the Special Civil Application has not been filed by the respondents and the factual averments made by the petitioner stand uncontroverted. From para 11 of the Special Civil Application I find that the petitioner made this demand for the copies of statements of witnesses in representation dated 3.11.2000 and same are not supplied. Learned counsel for the respondents very fairly submitted that the State Government has given direction to the detaining authority to supply copy of the relevant documents to the petitioner. However, he is unable to say that this order has been complied with or not by the detaining authority. There is nothing on record on the side of the any of the respondents that copies of the documents were given to the petitioner. Non-supply of copies of documents aforesaid which are vital and relevant to the case results in deprival of his valuable right of making effective representation against the detention order as guaranteed under Article 22(5) of the Constitution of India.

In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 25.10.2000 is quashed and set aside. The petitioner Bharatbhai Sadthabhai Dabhi, the detenu, at present in Junagadh District Prison, Junagadh, be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. As the respondents fairly conceded the position, no order as to costs.

(S.K.Keshote, J.)

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